

## **REMARKS**

Please reconsider this application in view of the amendments made above and the following detailed remarks. The prior art neither teaches nor suggests the claimed invention, either when the art is individually considered or combined with one another. In the absence of an uncovering by the Examiner of new prior art, it is respectfully believed and submitted that the present invention, defined by the claims is patentable. Prompt and favorable action is believed warranted.

### **I. Prior Disposition**

The Examiner objected to the specification under 35 USC 112, first paragraph, because the specification needs to be written in “full, clear, concise, and exact terms.” The Examiner objected to Claims 6-11 under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from any other multiple dependent claim. Claims 1-11 were also rejected under 35 USC 103(a) as being unpatentable over Carpenter, Jr. *et al.* in view of the teachings of Canadian Patent No. 561,919, a U.S. Patent to Moser and a U.S. Patent to Fusco, *et al.*

In response thereto, a discussion follows concerning all objections and rejections. The Applicant has amended the specification and claims (without the addition of new matter). The specification and claims now conform to 35 USC 112. With the now amended claims defining patentable subject matter over the prior art of record, the application is in condition for allowance. The Applicant has amended the specification and removed the multiple dependency from Claims 6-11. Currently pending are Claims 1-11.

## **II. Objections**

The Examiner objected to the specification under 35 USC 112, first paragraph, because the specification was believed to be replete with terms which were not clear, concise nor exact. The Examiner asserted that appropriate headings were required and indicated that some of the Figures were mislabeled. Applicant has amended the specification to add appropriate headings. Related applications have been added to the specification in a section entitled: Cross References. In addition, on page 3, the Applicant has replaced, consistent with the Examiner's suggestion, "The front end of belt... in Figures 9 and 10" with "The front end of belt... in Figures 8 and 10." The Applicant has also replaced "the winch... (Figure 8)" with "the winch... (Figure 9)." This, too, conforms to the Examiner's recommendation.

The Applicant respectfully asks the Examiner to consider the Specification as now set forth and to withdraw the objections to the specification.

## **III. Rejections under 35 USC 103**

The Examiner rejected Claims 1-11 under 35 USC 103(a) as being unpatentable over the teachings of Carpenture, Jr. *et al.*, US 3,704,798, in view of that taught by the Canadian Patent No. 561,919, the teachings of Moser, US 3,593,864, and that of Fusco, *et al.* US 4,747,747. The Examiner asserted that Carpenture, Jr. *et al* discloses a substantially similar unloading system, but acknowledged that it lacked a compensating system, a flexible belt with holes, and air injection. The Examiner, however, asserted that the Canadian Patent No. 561,919 disclosed the use of a compensating system; that Moser disclosed an air injection system; and that Fusco *et al.* disclosed the use of a belt with holes. According to the Examiner, it would have been obvious to

a mechanic with ordinary skill in the art at the time the invention was made to provide these features to the primary reference (Carpenture, Jr.) because there is motivation to aid and improve dispensing.

The Applicant respectfully disagrees with the rejection. Carpenture, Jr. '798 teaches a truck cargo transfer assembly which allows for the transfer of cargo of a truck to and from the truck. Specifically, Carpenture, Jr. '798 teaches the use of two winches (36 and 44). In contrast, the claimed invention uses a single reversible winch (28) which is used both to wind a flexible belt (23) pulling the transverse member (17) and to wind a cable for drawing the transverse member (17) in the opposite direction. Because the winding of the belt varies the effective diameter of the winch, a compensating mechanism (36, 56, and 57) is also provided. It varies the length of the path of the cable (33) during rotation of the winch. The single reversible winch (element c of the claim) and compensating mechanism (contained in element f of the claim) are features of the invention which distinguish it from the prior art.

Canadian Patent No. 561,919 teaches a loading and unloading device. Yet, the Canadian '919 reference fails to disclose any type of compensating mechanism. The piston and cylinder unit (4,5) of the Canadian reference is actually used to drive the transverse wall (2) by way of the cables; yet, no winch is provided. This type of configuration teaches away from a combination with Carpenture, Jr. '798 because Carpenture, Jr. '798 uses winches which are completely contrary to the use of a piston and cylinder configuration as set forth in the '919 reference.

Even assuming that the references show the elements urged by the Examiner, the Examiner has presented no line of reasoning as to why the artisan viewing the collective teachings of the references would have found it obvious to selectively pick and choose various

elements from Carpenter, Jr. *et al.*, Canadian Patent No. 561,919, the U.S. Moser and U.S. Fusco, *et al.* references to arrive at the Applicant's claimed invention. *See, Ex parte Clapp*, 227 USPQ 972 (PTO Bd App. 1985). The Examiner claims the motivation is to aid and improve dispensing, yet the reasoning connecting the various elements is totally absent. All cargo transporters aid and improve dispensing, as this is their inherent purpose. Without the applicant's teaching and claims as a guide, an artisan would have no motivation to combine the specific mechanical features of the aforementioned references to arrive at the precise mechanical configuration for which the Examiner asserts.

## VI. Conclusion

Applicant believes that this paper is responsive to each and every ground of objection and rejection cited by the Examiner in the Action dated October 24, 2003, and respectfully requests favorable action in this application. **The Examiner is invited to telephone the undersigned to discuss any further changes that might be deemed necessary.** Prompt and favorable action toward the issuance of a patent is earnestly solicited and believed to be fully warranted.

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Respectfully submitted,

  
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